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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,345	10/17/2001	Heather N. Bean	10011475-1	6702

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FORT COLLINS, CO 80527-2400

EXAMINER

LEMMA, SAMSON B

ART UNIT PAPER NUMBER

2132

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/982,345

Applicant(s)

BEAN ET AL.

Examiner

Samson B. Lemma

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26 and 30-33.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Examiner asserts that the argument presented by the applicant regarding the independent claims 1 and 30, containing the limitation, "wherein when the electronic device is disabled, a shutdown process switches the electronic device to an OFF state" is not shown or disclosed by the reference on the record namely Bhat is disagreed.

Examiner would point out that the Bhat discloses this feature. See [Page 2, ref. Num "0025" and ref. Num "0026"] (The security module "116" shown on figure 1, is coupled to the operating system and automatically locks out/disables unauthorized access to the portable electronic devices shown on figure 2A, ref. Num "208" and "210" by requiring username and password information every time the portable electronic devices are started or when the information button shown on figure 2A and 2B, ref. Num "212" is selected this meets the limitation of when the electronic device is disabled, a shutdown process switches the electronic device to an OFF state. The return-to-owner information is displayed on an interface shown on figure 2A and figure 2B ref. Num "216" when the security lockout shown on figure 2A and 2B, ref. Num "212" disables the devices when it is selected and the user is able to unlock/enable the system by only entering the correct password as shown on figure 2A and 2B, ref. Num "216")

Examiner would point out the fact that "disabling an electronic device and a shut down process switches the electronic device to an OFF state" is equivalent to "locking out the device to prevent unauthorized access to the data" as disclosed by Bhat. The limitation in the claim is not patentably distinguishable since both shutting down step as recited in the claim and locking out step as disclosed by Bhat are used for preventing data stored in the device to be accessed by unauthorized users. Turning the system in to off state does not add a patentably distinguishable element, since even unauthorized user can turn on the device by pressing the power button. The point however is unauthorized user would not be able to access the data stored in the system unless and otherwise they provide the required password. Therefore disabling an electronic device by locking out system as disclosed by Bhat meets the limitation of "disabling an electronic device by switching the electronic device to an off state" recited in the claim.

The second argument by the applicant is with regard to the dependent claims, 2-14 and 31-33. Applicant argued that the rest of the dependent claims are allowable for the reason that Bhat does not disclose the above argued limitation included in the independent claims 1 and 30.

In response to the above argument by the applicant, the examiner response discussed for the independent claims above is also valid towards this argument.

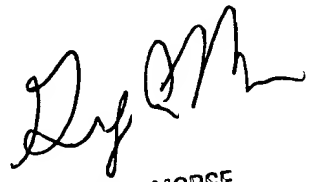
The third argument by the applicant is relation to the independent claims 15 and 21, and argued that office action lacks the motivation to combine the two references used in rejecting the claims namely Bhat and Tanaka et al. The applicant wrote the following in support of his argument, "The Examiner provided no extrinsic evidence to support a contention that a teaching, suggestion or motivation found explicitly in the cited references was either present implicitly in that taught by the references (which in this instance, clearly it is not). The applicant further argued that the Examiner cited nothing (i.e., no extrinsic evidence) beyond the references themselves in support of the Examiner's motivation."

Examiner disagree with the above argument. Examiner would point out that the motivation to combine the reference is shown on paragraph "0004" of the secondary reference namely Tanaka. Examiner also indicate the fact that it is not necessary that the reference actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The text for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. See In re Shekelle, 168 USPQ 716 (CCPA 1971) In re McLaghlin 170 USPQ 209 (CCPA 1971). In re Young 159 USPQ 725 (CCPA 1968).

The last argument by the applicant is regarding the dependent claims 16-20 and 22-26. Applicant argued that the rest of the dependent claims are allowable for the reason that the combination of references namely Bhat and Tanaka does not disclose all the limitation in the respective independent claims.

In response to the above argument by the applicant, the examiner response discussed for the independent claims above is also valid towards this argument.

Therefore the Examiner asserts that the rejection is valid and meets all elements of the claims.


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